

AMENDED IN SENATE SEPTEMBER 4, 2009

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN SENATE JULY 6, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1291

Introduced by Assembly Member Niello

February 27, 2009

An act to amend Sections 1513, 1513.5, 1514, 1516, 1520, 1532, 1560, and 1577 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1291, as amended, Niello. Unclaimed property.

Existing law, the Unclaimed Property Law, governs the disposition of unclaimed property, including the escheat of certain property to the state. Those provisions require a person holding funds or other property escheated to the state to report to the Controller certain information regarding the property and the owner.

Existing law provides for the escheat to the state of (1) certain deposits or accounts made with a banking organization, together with other specified sums, (2) certain deposits, accounts, investment certificates, or other interests in or deposits made with a financial organization, together with other specified sums, and (3) certain funds held by a business association in specified retirement accounts or plans, when

the owner, for more than 3 years, has not taken any of certain actions, except as specified.

Existing law requires certain entities to make reasonable efforts to notify owners of certain property, by mail, that the property will escheat to the state under specified provisions of law.

This bill would allow those entities to notify an owner described above electronically if the owner has consented to electronic notice.

Existing law requires the holder of certain property, including certain property held by a banking or financial organization, certain sums held or owing by a business association to shareholders or other specified persons, and tangible property that is held in the ordinary course of the holder's business, to notify the owner, at prescribed times, of information regarding escheat and to include a form by which the owner may declare an intention to maintain the deposit, account, shares, or other interest.

This bill would require that those notices contain certain information, and would allow the holder to provide a telephone number or other electronic means to enable the owner to contact the organization in lieu of returning the above-described form to declare the owner's intent. The bill would authorize the holder to give additional notices, as specified. The bill, commencing January 1, 2011, would require that, at the time a new account is opened with a banking or financial organization, the organization provide a written notice to the person opening the account regarding escheat.

Existing law provides that the contents of any safe deposit box or any other safekeeping repository held in this state by a bank, financial organization, or business association escheat to the state if unclaimed by the owner for more than 3 years from the date on which the lease or rental period on the box or other repository expired, or from the date of termination of another specified agreement, whichever occurs last.

This bill would require a bank, financial organization, or business association to notify the owner of the contents of a safe deposit box, at either of 2 specified times, regarding escheat, and would specify the contents of the notice. The bill would require that notice to include a form by which the customer may declare an intention to maintain the safe deposit box or other safekeeping repository, and would authorize the bank, financial organization, or business association to impose a service charge for the notice and form. The bill would provide that the contents of a safe deposit box shall not escheat to the state under certain circumstances. The bill would also require a bank, financial organization,

or business association to provide a notice regarding escheat to a person opening a new account for a safe deposit box or other safekeeping repository.

Existing law requires every person holding funds or other property escheated to the state to report to the Controller, as specified. Existing law requires every person filing such a report to pay or deliver to the Controller all escheated property specified in the report within a certain period.

This bill would allow the Controller to postpone the date for payment or delivery of the property, and the date for any report required by the above provisions, upon his or her own motion or upon written request by any person required to pay or deliver the property or file a report.

Existing law provides that a person who pays or delivers escheated property to the Controller under the above provisions is relieved of all liability to the extent of the value of the property paid or delivered for any claim that then exists or that thereafter may arise.

This bill would provide, instead, that a person who pays or delivers escheated property to the Controller under the above provisions and who, prior to escheat, if the person's records contain an address for the apparent owner, which the holder's records do not disclose to be inaccurate, has made reasonable efforts to notify the owner by mail or electronically that the owner's property, deposit, account, shares, or other interest will escheat to the state, is relieved of all liability to the extent of the value of the property paid or delivered for any claim that then exists or that thereafter may arise.

Existing law requires that any person who fails to report, pay, or deliver unclaimed property within the time prescribed by these provisions, unless that failure is due to reasonable cause, pay to the Controller interest at the rate of 12% per annum on that property or value thereof from the date the property should have been reported, paid, or delivered.

This bill would require, in addition, that any person who fails to file a report substantially in the time and manner required by specified provisions of law, unless that failure is due to reasonable cause, pay to the Controller interest as described above. The bill would limit the interest payable to the Controller if a holder has failed to file a report in a required manner, but has timely paid or delivered the property to the Controller.

This bill would make other related and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1513 of the Code of Civil Procedure is
2 amended to read:
3 1513. (a) Subject to Sections 1510 and 1511, the following
4 property held or owing by a business association escheats to this
5 state:
6 (1) (A) Except as provided in paragraph (6), any demand,
7 savings, or matured time deposit, or account subject to a negotiable
8 order of withdrawal, made with a banking organization, together
9 with any interest or dividends thereon, excluding, from demand
10 deposits and accounts subject to a negotiable order of withdrawal
11 only, any reasonable service charges that may lawfully be withheld
12 and that do not (where made in this state) exceed those set forth
13 in schedules filed by the banking organization from time to time
14 with the Controller, when the owner, for more than three years,
15 has not done any of the following:
16 (i) Increased or decreased the amount of the deposit, cashed an
17 interest check, or presented the passbook or other similar evidence
18 of the deposit for the crediting of interest.
19 (ii) Corresponded electronically or in writing with the banking
20 organization concerning the deposit.
21 (iii) Otherwise indicated an interest in the deposit as evidenced
22 by a memorandum or other record on file with the banking
23 organization.
24 (B) A deposit or account shall not, however, escheat to the state
25 if, during the previous three years, the owner has owned another
26 deposit or account with the banking organization or the owner has
27 owned an individual retirement account or funds held by the
28 banking organization under a retirement plan for self-employed
29 individuals or a similar account or plan established pursuant to the
30 internal revenue laws of the United States or the laws of this state,
31 as described in paragraph (6), and, with respect to that deposit,
32 account, or plan, the owner has done any of the acts described in
33 clauses (i), (ii) or (iii) of subparagraph (A), and the banking
34 organization has communicated electronically or in writing with
35 the owner, at the address to which communications regarding that

1 deposit, account, or plan are regularly sent, with regard to the
2 deposit, account, or plan that would otherwise escheat under
3 subparagraph (A). For purposes of this subparagraph,
4 “communications” includes account statements or statements
5 required under the internal revenue laws of the United States.

6 (C) No banking organization may discontinue any interest or
7 dividends on any savings deposit because of the inactivity
8 contemplated by this section.

9 (2) (A) Except as provided in paragraph (6), any demand,
10 savings, or matured time deposit, or matured investment certificate,
11 or account subject to a negotiable order of withdrawal, or other
12 interest in a financial organization or any deposit made therewith,
13 and any interest or dividends thereon, excluding, from demand
14 deposits and accounts subject to a negotiable order of withdrawal
15 only, any reasonable service charges that may lawfully be withheld
16 and that do not (where made in this state) exceed those set forth
17 in schedules filed by the financial organization from time to time
18 with the Controller, when the owner, for more than three years,
19 has not done any of the following:

20 (i) Increased or decreased the amount of the funds or deposit,
21 cashed an interest check, or presented an appropriate record for
22 the crediting of interest or dividends.

23 (ii) Corresponded electronically or in writing with the financial
24 organization concerning the funds or deposit.

25 (iii) Otherwise indicated an interest in the funds or deposit as
26 evidenced by a memorandum or other record on file with the
27 financial organization.

28 (B) A deposit or account shall not, however, escheat to the state
29 if, during the previous three years, the owner has owned another
30 deposit or account with the financial organization or the owner
31 has owned an individual retirement account or funds held by the
32 financial organization under a retirement plan for self-employed
33 individuals or a similar account or plan established pursuant to the
34 internal revenue laws of the United States or the laws of this state,
35 as described in paragraph (6), and, with respect to that deposit,
36 account, or plan, the owner has done any of the acts described in
37 clauses (i), (ii) or (iii) of subparagraph (A), and the financial
38 organization has communicated electronically or in writing with
39 the owner, at the address to which communications regarding that
40 deposit, account, or plan are regularly sent, with regard to the

1 deposit, account, or plan that would otherwise escheat under
2 subparagraph (A). For purposes of this subparagraph,
3 “communications” includes account statements or statements
4 required under the internal revenue laws of the United States.

5 (C) No financial organization may discontinue any interest or
6 dividends on any funds paid toward purchase of shares or other
7 interest, or on any deposit, because of the inactivity contemplated
8 by this section.

9 (3) Any sum payable on a traveler’s check issued by a business
10 association that has been outstanding for more than 15 years from
11 the date of its issuance, when the owner, for more than 15 years,
12 has not corresponded in writing with the business association
13 concerning it, or otherwise indicated an interest as evidenced by
14 a memorandum or other record on file with the association.

15 (4) Any sum payable on any other written instrument on which
16 a banking or financial organization is directly liable, including, by
17 way of illustration but not of limitation, any draft, cashier’s check,
18 teller’s check, or certified check, that has been outstanding for
19 more than three years from the date it was payable, or from the
20 date of its issuance if payable on demand, when the owner, for
21 more than three years, has not corresponded electronically or in
22 writing with the banking or financial organization concerning it,
23 or otherwise indicated an interest as evidenced by a memorandum
24 or other record on file with the banking or financial organization.

25 (5) Any sum payable on a money order issued by a business
26 association (including a banking or financial organization), that
27 has been outstanding for more than seven years from the date it
28 was payable, or from the date of its issuance if payable on demand,
29 excluding any reasonable service charges that may lawfully be
30 withheld and that do not, when made in this state, exceed those
31 set forth in schedules filed by the business association from time
32 to time with the Controller, when the owner, for more than seven
33 years, has not corresponded electronically or in writing with the
34 business association, banking, or financial organization concerning
35 it, or otherwise indicated an interest as evidenced by a
36 memorandum or other record on file with the business association.
37 For the purposes of this subdivision, “reasonable service charge”
38 means a service charge that meets all of the following requirements:

39 (A) It is uniformly applied to all of the issuer’s money orders.

1 (B) It is clearly disclosed to the purchaser at the time of purchase
2 and to the recipient of the money order.

3 (C) It does not begin to accrue until three years after the
4 purchase date, and it stops accruing after the value of the money
5 order escheats.

6 (D) It is permitted by contract between the issuer and the
7 purchaser.

8 (E) It does not exceed 25 cents (\$0.25) per month or the
9 aggregate amount of twenty-one dollars (\$21).

10 (6) (A) Any funds held by a business association in an
11 individual retirement account or under a retirement plan for
12 self-employed individuals or similar account or plan established
13 pursuant to the internal revenue laws of the United States or of
14 this state, when the owner, for more than three years after the funds
15 become payable or distributable, has not done any of the following:

16 (i) Increased or decreased the principal.

17 (ii) Accepted payment of principal or income.

18 (iii) Corresponded electronically or in writing concerning the
19 property or otherwise indicated an interest.

20 (B) Funds held by a business association in an individual
21 retirement account or under a retirement plan for self-employed
22 individuals or a similar account or plan created pursuant to the
23 internal revenue laws of the United States or the laws of this state
24 shall not escheat to the state if, during the previous three years,
25 the owner has owned another such account or plan with the
26 business association and, with respect to that account or plan, the
27 owner has done any of the acts described in clause (i), (ii), or (iii)
28 of subparagraph (A), and the business association has
29 communicated electronically or in writing with the owner, at the
30 address to which communications regarding that account or plan
31 are regularly sent, with regard to the account or plan that would
32 otherwise escheat under subparagraph (A). For purposes of this
33 subparagraph, "communications" includes account statements or
34 statements required under the internal revenue laws of the United
35 States.

36 (C) These funds are not payable or distributable within the
37 meaning of this subdivision unless, under the terms of the account
38 or plan, distribution of all or a part of the funds would then be
39 mandatory.

1 (7) Any wages or salaries that have remained unclaimed by the
2 owner for more than one year after the wages or salaries become
3 payable.

4 (b) For purposes of this section “service charges” means service
5 charges imposed because of the inactivity contemplated by this
6 section.

7 SEC. 2. Section 1513.5 of the Code of Civil Procedure is
8 amended to read:

9 1513.5. (a) Except as provided in subdivision (c), if the holder
10 has in its records an address for the apparent owner, which the
11 holder’s records do not disclose to be inaccurate, every banking
12 or financial organization shall make reasonable efforts to notify
13 any owner by mail or, if the owner has consented to electronic
14 notice, electronically, that the owner’s deposit, account, shares, or
15 other interest in the banking or financial organization will escheat
16 to the state pursuant to clause ~~(i) or (ii)~~ (i), (ii), or (iii) of
17 subparagraph (A) of paragraphs (1), (2), or (6) of subdivision (a)
18 of Section 1513. The holder shall give notice either:

19 (1) Not less than two years nor more than two and one-half
20 years after the date of last activity by, or communication with, the
21 owner with respect to the account, deposit, shares, or other interest,
22 as shown on the record of the banking or financial organization.

23 (2) Not less than six nor more than 12 months before the time
24 the account, deposit, shares, or other interest becomes reportable
25 to the Controller in accordance with this chapter.

26 (b) The notice required by this section shall specify the time
27 that the deposit, account, shares, or other interest will escheat and
28 the effects of escheat, including the necessity for filing a claim for
29 the return of the deposit, account, shares, or other interest. The
30 face of the notice shall contain a heading at the top that reads as
31 follows: “THE STATE OF CALIFORNIA REQUIRES US TO
32 NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY
33 BE TRANSFERRED TO THE STATE IF YOU DO NOT
34 CONTACT US,” or substantially similar language. The notice
35 required by this section shall, in boldface type or in a font a
36 minimum of two points larger than the rest of the notice, exclusive
37 of the heading, (1) specify that since the date of last activity, or
38 for the last two years, there has been no owner activity on the
39 deposit, account, shares, or other interest; (2) identify the deposit,
40 account, shares, or other interest by number or identifier, which

1 need not exceed four digits; (3) indicate that the deposit, account,
2 shares, or other interest is in danger of escheating to the state; and
3 (4) specify that the California Unclaimed Property Law requires
4 banks, banking organizations, and financial organizations to
5 transfer funds of a deposit, account, shares, or other interest if it
6 has been inactive for three years. It shall also include a form, as
7 prescribed by the Controller, by which the owner may declare an
8 intention to maintain the deposit, account, shares, or other interest.
9 If that form is filled out, signed by the owner, and returned to the
10 banking or financial organization, it shall satisfy the requirement
11 of clause (iii) of subparagraph (A) of paragraph (1), ~~or clause (iii)~~
12 ~~of subparagraph (A) of paragraph (2), or clause (iii) of~~
13 ~~subparagraph (A) of paragraph (6) of subdivision (a) of Section~~
14 ~~1513. In lieu of returning the form, the banking or financial~~
15 ~~organization may provide a telephone number or other electronic~~
16 ~~means to enable the owner to contact that organization. The contact,~~
17 ~~as evidenced by a memorandum or other record on file with the~~
18 ~~banking or financial organization, shall satisfy the requirement of~~
19 ~~clause (iii) of subparagraph (A) of paragraph (1), or clause (iii) of~~
20 ~~subparagraph (A) of paragraph (2), or clause (iii) of subparagraph~~
21 ~~(A) of paragraph (6) of subdivision (a) of Section 1513. The~~
22 ~~banking or financial organization may impose a service charge on~~
23 ~~the deposit, account, shares, or other interest for this notice in an~~
24 ~~amount not to exceed the administrative cost of mailing or~~
25 ~~electronically sending the notice and form and in no case to exceed~~
26 ~~two dollars (\$2).~~

27 (c) Notice as provided by subdivisions (a) and (b) shall not be
28 required for deposits, accounts, shares, or other interests of less
29 than fifty dollars (\$50), and no service charge may be made for
30 notice on these items.

31 (d) In addition to the notices required pursuant to subdivision
32 (a), the holder may give additional notice as described in
33 subdivision (b) at any time between the date of last activity by, or
34 communication with, the owner and the date the holder transfers
35 the deposit, account, shares, or other interest to the Controller.

36 (e) At the time a new account is opened with a banking or
37 financial organization, the organization shall provide a written
38 notice to the person opening the account informing the person that
39 his or her property may be transferred to the ~~applicable~~ *appropriate*
40 state if no activity occurs in the account within the time period

1 specified by state law. If the person opening the account has
2 consented to electronic notice, that notice may be provided
3 electronically. This subdivision shall become effective on January
4 1, 2011.

5 SEC. 3. Section 1514 of the Code of Civil Procedure is
6 amended to read:

7 1514. (a) The contents of, or the proceeds of sale of the
8 contents of, any safe deposit box or any other safekeeping
9 repository, held in this state by a business association, escheat to
10 this state if unclaimed by the owner for more than three years from
11 the date on which the lease or rental period on the box or other
12 repository expired, or from the date of termination of any
13 agreement because of which the box or other repository was
14 furnished to the owner without cost, whichever last occurs.

15 (b) If a business association has in its records an address for an
16 apparent owner of the contents of, or the proceeds of sale of the
17 contents of, a safe deposit box or other safekeeping repository
18 described in subdivision (a), and the records of the business
19 association do not disclose the address to be inaccurate, the
20 business association shall make reasonable efforts to notify the
21 owner by mail, or, if the owner has consented to electronic notice,
22 electronically, that the owner's contents, or the proceeds of the
23 sale of the contents, will escheat to the state pursuant to this section.
24 The business association shall give notice not less than six months
25 and not more than 12 months before the time the contents, or the
26 proceeds of the sale of the contents, become reportable to the
27 Controller in accordance with this chapter.

28 (c) The face of the notice shall contain a heading at the top that
29 reads as follows: "THE STATE OF CALIFORNIA REQUIRES
30 US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY
31 MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT
32 CONTACT US," or substantially similar language. The notice
33 required by this subdivision shall specify the date that the property
34 will escheat and the effects of escheat, including the necessity for
35 filing a claim for the return of the property. The notice required
36 by this section shall, in boldface type or in a font a minimum of
37 two points larger than the rest of the notice, exclusive of the
38 heading, do all of the following:

39 (1) Identify the safe deposit box or other safekeeping repository
40 by number or identifier.

1 (2) State that the lease or rental period on the box or repository
2 has expired or the agreement has terminated.

3 (3) Indicate that the contents of, or the proceeds of sale of the
4 contents of, the safe deposit box or other safekeeping repository
5 will escheat to the state unless the owner requests the contents or
6 their proceeds.

7 (4) Specify that the California Unclaimed Property Law requires
8 business associations to transfer the contents of, or the proceeds
9 of sale of the contents of, a safe deposit box or other safekeeping
10 repository to the Controller if they remain unclaimed for more
11 than three years.

12 (5) Advise the owner to make arrangements with the business
13 association to either obtain possession of the contents of, or the
14 proceeds of sale of the contents of, the safe deposit box or other
15 safekeeping repository, or enter into a new agreement with the
16 business association to establish a leasing or rental arrangement.
17 If an owner fails to establish such an arrangement prior to the end
18 of the period described in subdivision (a), such contents or proceeds
19 shall escheat to this state.

20 (d) In addition to the notice required pursuant to subdivision
21 (b), the business association may give additional notice in
22 accordance with subdivision (c) at any time between the date on
23 which the lease or rental period for the safe deposit box or
24 repository expired, or from the date of the termination of any
25 agreement, through which the box or other repository was furnished
26 to the owner without cost, whichever is earlier, and the date the
27 business association transfers the contents of, or the proceeds of
28 sale of the contents of, the safe deposit box or other safekeeping
29 repository to the Controller.

30 (e) The contents of, or the proceeds of sale of the contents of,
31 a safe deposit box or other safekeeping repository shall not escheat
32 to the state if, as of June 30 or the fiscal yearend next preceding
33 the date on which a report is required to be filed under Section
34 1530, the owner has owned, with a banking organization providing
35 the safe deposit box or other safekeeping repository, any demand,
36 savings, or matured time deposit, or account subject to a negotiable
37 order of withdrawal, which has not escheated under Section 1513
38 and is not reportable under subdivision (d) of Section ~~1513~~ 1530.

39 (f) The contents of, or the proceeds of sale of the contents of, a
40 safe deposit box or other safekeeping repository shall not escheat

1 to the state if, as of June 30 or the fiscal yearend next preceding
2 the date on which a report is required to be filed under Section
3 1530, the owner has owned, with a financial organization providing
4 the safe deposit box or other safekeeping repository, any demand,
5 savings, or matured time deposit, or matured investment certificate,
6 or account subject to a negotiable order of withdrawal, or other
7 interest in a financial organization or any deposit made therewith,
8 and any interest or dividends thereon, which has not escheated
9 under Section 1513 and is not reportable under subdivision (d) of
10 Section ~~1513~~ 1530.

11 (g) The contents of, or the proceeds of sale of the contents of,
12 a safe deposit box or other safekeeping repository shall not escheat
13 to the state if, as of June 30 or the fiscal yearend next preceding
14 the date on which a report is required to be filed under Section
15 1530, the owner has owned, with a banking or financial
16 organization providing the safe deposit box or other safekeeping
17 repository, any funds in an individual retirement account or under
18 a retirement plan for self-employed individuals or similar account
19 or plan pursuant to the internal revenue laws of the United States
20 or the income tax laws of this state, which has not escheated under
21 Section 1513 and is not reportable under subdivision (d) of Section
22 ~~1513~~ 1530.

23 (h) In the event the owner is in default under the safe deposit
24 box or other safekeeping repository agreement and the owner has
25 owned any demand, savings, or matured time deposit, account, or
26 plan described in subdivisions (e), (f), or (g), the banking or
27 financial organization may pay or deliver the contents of, or the
28 proceeds of sale of the contents of, the safe deposit box or other
29 safekeeping repository to the owner after deducting any amount
30 due and payable from those proceeds under that agreement. Upon
31 making that payment or delivery under these subdivisions, the
32 banking or financial organization shall be relieved of all liability
33 to the extent of the value of those contents or proceeds.

34 (i) For new accounts opened for a safe deposit box or other
35 safekeeping repository with a business association on and after
36 January 1, 2011, the business association shall provide a written
37 notice to the person leasing the safe deposit box or safekeeping
38 repository informing the person that his or her property, or the
39 proceeds of sale of such property, may be transferred to the
40 appropriate state upon running of the time period specified by state

1 law from the date the lease or rental period on the safe deposit box
2 or repository expired, or from the date of termination of any
3 agreement because of which the box or other repository was
4 furnished to the owner without cost, whichever is earlier.

5 (j) A business association may directly escheat the contents of
6 a safe deposit box or other safekeeping repository without
7 exercising its rights under Article 2 (commencing with Section
8 1660) of Chapter 13 of Division 1 of the Financial Code.

9 SEC. 4. Section 1516 of the Code of Civil Procedure is
10 amended to read:

11 1516. (a) Subject to Section 1510, any dividend, profit,
12 distribution, interest, payment on principal, or other sum held or
13 owing by a business association for or to its shareholder, certificate
14 holder, member, bondholder, or other security holder, or a
15 participating patron of a cooperative, who has not claimed it, or
16 corresponded in writing with the business association concerning
17 it, within three years after the date prescribed for payment or
18 delivery, escheats to this state.

19 (b) Subject to Section 1510, any intangible interest in a business
20 association, as evidenced by the stock records or membership
21 records of the association, escheats to this state if (1) the interest
22 in the association is owned by a person who for more than three
23 years has neither claimed a dividend or other sum referred to in
24 subdivision (a) nor corresponded in writing with the association
25 or otherwise indicated an interest as evidenced by a memorandum
26 or other record on file with the association, and (2) the association
27 does not know the location of the owner at the end of the three-year
28 period. With respect to the interest, the business association shall
29 be deemed the holder.

30 (c) Subject to Section 1510, any dividends or other distributions
31 held for or owing to a person at the time the stock or other security
32 to which they attach escheats to this state also escheat to this state
33 as of the same time.

34 (d) If the business association has in its records an address for
35 the apparent owner, which the business association's records do
36 not disclose to be inaccurate, with respect to any interest that may
37 escheat pursuant to subdivision (b), the business association shall
38 make reasonable efforts to notify the owner by mail or, if the owner
39 has consented to electronic notice, electronically, that the owner's
40 interest in the business association will escheat to the state. The

1 notice shall be given not less than 6 nor more than 12 months
2 before the time the interest in the business association becomes
3 reportable to the Controller in accordance with this chapter. The
4 face of the notice shall contain a heading at the top that reads as
5 follows: "THE STATE OF CALIFORNIA REQUIRES US TO
6 NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY
7 BE TRANSFERRED TO THE STATE IF YOU DO NOT
8 CONTACT US," or substantially similar language. The notice
9 required by this subdivision shall specify the time that the interest
10 will escheat and the effects of escheat, including the necessity for
11 filing a claim for the return of the interest. The notice required by
12 this section shall, in boldface type or in a font a minimum of two
13 points larger than the rest of the notice, exclusive of the heading,
14 (1) specify that since the date of last activity, or for the last two
15 years, there has been no customer activity on the deposit, account,
16 shares, or other interest; (2) identify the deposit, account, shares,
17 or other interest by number or identifier, which need not exceed
18 four digits; (3) indicate that the deposit, account, shares, or other
19 interest is in danger of escheating to the state; and (4) specify that
20 the California Unclaimed Property Law requires banks, banking
21 organizations, and financial organizations to transfer funds of a
22 deposit, account, shares, or other interest if it has been inactive for
23 three years. It shall also include a form, as prescribed by the
24 Controller, by which the owner may confirm the owner's current
25 address. If that form is filled out, signed by the owner, and returned
26 to the holder, it shall be deemed that the business association knows
27 the location of the owner.

28 In lieu of returning the form, the business association may provide
29 a telephone number or other electronic means to enable the owner
30 to contact the association. With that contact, as evidenced by a
31 memorandum or other record on file with the business association,
32 the business association shall be deemed to know the location of
33 the owner. The business association may impose a service charge
34 on the deposit, account, shares, or other interest for this notice and
35 form in an amount not to exceed the administrative cost of mailing
36 or electronically sending the notice and form, and in no case to
37 exceed two dollars (\$2).

38 (e) In addition to the notice required pursuant to subdivision
39 (d), the holder may give additional notice as described in
40 subdivision (d) at any time between the date of last activity by, or

1 communication with, the owner and the date the holder transfers
2 the deposit, shares, or other interest to the Controller.

3 SEC. 5. Section 1520 of the Code of Civil Procedure is
4 amended to read:

5 1520. (a) All tangible personal property located in this state
6 and, subject to Section 1510, all intangible personal property,
7 except property of the classes mentioned in Sections 1511, 1513,
8 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including
9 any income or increment thereon and deducting any lawful charges,
10 that is held or owing in the ordinary course of the holder's business
11 and has remained unclaimed by the owner for more than three
12 years after it became payable or distributable escheats to this state.

13 (b) Except as provided in subdivision (a) of Section 1513.5,
14 subdivision (b) of Section 1514, and subdivision (d) of Section
15 1516, if the holder has in its records an address for the apparent
16 owner of property valued at fifty dollars (\$50) or more, which the
17 holder's records do not disclose to be inaccurate, the holder shall
18 make reasonable efforts to notify the owner by mail or, if the owner
19 has consented to electronic notice, electronically, that the owner's
20 property will escheat to the state pursuant to this chapter. The
21 notice shall be mailed not less than six nor more than 12 months
22 before the time when the owner's property held by the business
23 becomes reportable to the Controller in accordance with this
24 chapter. The face of the notice shall contain a heading at the top
25 that reads as follows: "THE STATE OF CALIFORNIA
26 REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED
27 PROPERTY MAY BE TRANSFERRED TO THE STATE IF
28 YOU DO NOT CONTACT US," or substantially similar language.
29 The notice required by this subdivision shall specify the time when
30 the property will escheat and the effects of escheat, including the
31 need to file a claim in order for the owner's property to be returned
32 to the owner. The notice required by this section shall, in boldface
33 type or in a font a minimum of two points larger than the rest of
34 the notice, exclusive of the heading, (1) specify that since the date
35 of last activity, or for the last two years, there has been no owner
36 activity on the deposit, account, shares, or other interest; (2)
37 identify the deposit, account, shares, or other interest by number
38 or identifier, which need not exceed four digits; (3) indicate that
39 the deposit, account, shares, or other interest is in danger of
40 escheating to the state; and (4) specify that the California

1 Unclaimed Property Law requires banks, banking organizations,
2 and financial organizations to transfer funds of a deposit, account,
3 shares, or other interest if it has been inactive for three years. It
4 shall also include a form, as prescribed by the Controller, by which
5 the owner may confirm the owner's current address. If that form
6 is filled out, signed by the owner, and returned to the holder, it
7 shall be deemed that the account, or other device in which the
8 owner's property is being held, remains currently active and
9 recommences the escheat period. In lieu of returning the form, the
10 holder may provide a telephone number or other electronic means
11 to enable the owner to contact the holder. With that contact, as
12 evidenced by a memorandum or other record on file with the
13 holder, the account or other device in which the owner's property
14 is being held shall be deemed to remain currently active and shall
15 recommence the escheat period. The holder may impose a service
16 charge on the deposit, account, shares, or other interest for this
17 notice in an amount not to exceed the administrative cost of mailing
18 or electronically sending the notice and form, and in no case to
19 exceed two dollars (\$2).

20 (c) In addition to the notice required pursuant to subdivision
21 (b), the holder may give additional notice as described in
22 subdivision (b) at any time between the date of last activity by, or
23 communication with, the owner and the date the holder transfers
24 the property to the Controller.

25 (d) For purposes of this section, "lawful charges" means charges
26 which are specifically authorized by statute, other than the
27 Unclaimed Property Law, or by a valid, enforceable contract.

28 SEC. 6. Section 1532 of the Code of Civil Procedure is
29 amended to read:

30 1532. (a) Every person filing a report as provided by Section
31 1530 shall, no sooner than seven months and no later than seven
32 months and 15 days after the final date for filing the report, pay
33 or deliver to the Controller all escheated property specified in the
34 report. Any payment of unclaimed cash in an amount of at least
35 twenty thousand dollars (\$20,000) shall be made by electronic
36 funds transfer pursuant to regulations adopted by the Controller.
37 The Controller may postpone the date for payment or delivery of
38 the property, and the date for any report required by subdivision
39 (b), upon his or her own motion or upon written request by any

1 person required to pay or deliver the property or file a report as
2 required by this section.

3 (b) If a person establishes his or her right to receive any property
4 specified in the report to the satisfaction of the holder before that
5 property has been delivered to the Controller, or it appears that,
6 for any other reason, the property may not be subject to escheat
7 under this chapter, the holder shall not pay or deliver the property
8 to the Controller but shall instead file a report with the Controller,
9 on a form and in a format prescribed or approved by the Controller,
10 containing information pertaining to the property not subject to
11 escheat.

12 (c) Any property not paid or delivered pursuant to subdivision
13 (b) that is later determined by the holder to be subject to escheat
14 under this chapter shall not be subject to the interest provision of
15 Section 1577.

16 (d) The holder of any interest under subdivision (b) of Section
17 1516 shall deliver a duplicate certificate to the Controller or shall
18 register the securities in uncertificated form in the name of the
19 Controller. Upon delivering a duplicate certificate or providing
20 evidence of registration of the securities in uncertificated form to
21 the Controller, the holder, any transfer agent, registrar, or other
22 person acting for or on behalf of the holder in executing or
23 delivering the duplicate certificate or registering the uncertificated
24 securities, shall be relieved from all liability of every kind to any
25 person including, but not limited to, any person acquiring the
26 original certificate or the duplicate of the certificate issued to the
27 Controller for any losses or damages resulting to that person by
28 the issuance and delivery to the Controller of the duplicate
29 certificate or the registration of the uncertificated securities to the
30 Controller.

31 (e) Payment of any intangible property to the Controller shall
32 be made at the office of the Controller in Sacramento or at another
33 location as the Controller by regulation may designate. Except as
34 otherwise agreed by the Controller and the holder, tangible personal
35 property shall be delivered to the Controller at the place where it
36 is held.

37 (f) Payment is deemed complete on the date the electronic funds
38 transfer is initiated if the settlement to the state's demand account
39 occurs on or before the banking day following the date the transfer
40 is initiated. If the settlement to the state's demand account does

1 not occur on or before the banking day following the date the
2 transfer is initiated, payment is deemed to occur on the date
3 settlement occurs.

4 (g) Any person required to pay cash by electronic funds transfer
5 who makes the payment by means other than an authorized
6 electronic funds transfer shall be liable for a civil penalty of 2
7 percent of the amount of the payment that is due pursuant to this
8 section, in addition to any other penalty provided by law. Penalties
9 are due at the time of payment. If the Controller finds that a
10 holder's failure to make payment by an appropriate electronic
11 funds transfer in accordance with the Controller's procedures is
12 due to reasonable cause and circumstances beyond the holder's
13 control, and occurred notwithstanding the exercise of ordinary
14 care and in the absence of willful neglect, that holder shall be
15 relieved of the penalties.

16 (h) An electronic funds transfer shall be accomplished by an
17 automated clearinghouse debit, an automated clearinghouse credit,
18 a Federal Reserve Wire Transfer (Fedwire), or by an international
19 funds transfer. Banking costs incurred for the automated
20 clearinghouse debit transaction by the holder shall be paid by the
21 state. Banking costs incurred by the state for the automated
22 clearinghouse credit transaction may be paid by the holder
23 originating the credit. Banking costs incurred for the Fedwire
24 transaction charged to the holder and the state shall be paid by the
25 person originating the transaction. Banking costs charged to the
26 holder and to the state for an international funds transfer may be
27 charged to the holder.

28 (i) For purposes of this section:

29 (1) "Electronic funds transfer" means any transfer of funds,
30 other than a transaction originated by check, draft, or similar paper
31 instrument, that is initiated through an electronic terminal,
32 telephonic instrument, modem, computer, or magnetic tape, so as
33 to order, instruct, or authorize a financial institution to credit or
34 debit an account.

35 (2) "Automated clearinghouse" means any federal reserve bank,
36 or an organization established by agreement with the National
37 Automated Clearing House Association or any similar organization,
38 that operates as a clearinghouse for transmitting or receiving entries
39 between banks or bank accounts and that authorizes an electronic
40 transfer of funds between those banks or bank accounts.

1 (3) “Automated clearinghouse debit” means a transaction in
2 which the state, through its designated depository bank, originates
3 an automated clearinghouse transaction debiting the holder’s bank
4 account and crediting the state’s bank account for the amount of
5 payment.

6 (4) “Automated clearinghouse credit” means an automated
7 clearinghouse transaction in which the holder, through its own
8 bank, originates an entry crediting the state’s bank account and
9 debiting the holder’s bank account.

10 (5) “Fedwire” means any transaction originated by the holder
11 and utilizing the national electronic payment system to transfer
12 funds through federal reserve banks, pursuant to which the holder
13 debits its own bank account and credits the state’s bank account.

14 (6) “International funds transfer” means any transaction
15 originated by the holder and utilizing the international electronic
16 payment system to transfer funds, pursuant to which the holder
17 debits its own bank account, and credits the funds to a United
18 States bank that credits the Unclaimed Property Fund.

19 SEC. 7. Section 1560 of the Code of Civil Procedure is
20 amended to read:

21 1560. (a) Upon the payment or delivery of escheated property
22 to the Controller, the state shall assume custody and shall be
23 responsible for the safekeeping of the property. Any person who
24 pays or delivers escheated property to the Controller under this
25 chapter and who, prior to escheat, if the person’s records contain
26 an address for the apparent owner, which the holder’s records do
27 not disclose to be inaccurate, has made reasonable efforts to notify
28 the owner by mail or, if the owner has consented to electronic
29 notice, electronically, in substantial compliance with Sections
30 1513.5, 1514, 1516, and 1520, that the owner’s property, deposit,
31 account, shares, or other interest will escheat to the state, is relieved
32 of all liability to the extent of the value of the property so paid or
33 delivered for any claim which then exists or which thereafter may
34 arise or be made in respect to the property. Property removed from
35 a safe deposit box or other safekeeping repository shall be received
36 by the Controller subject to any valid lien of the holder for rent
37 and other charges, such rent and other charges to be paid out of
38 the proceeds remaining after the Controller has deducted therefrom
39 his or her selling cost.

(b) Any holder who has paid moneys to the State Controller pursuant to this chapter may make payment to any person appearing to such holder to be entitled thereto, and upon filing proof of such payment and proof that the payee was entitled thereto, the Controller shall forthwith reimburse the holder for the payment without deduction of any fee or other charges. Where reimbursement is sought for a payment made on a negotiable instrument (including a traveler's check or money order), the holder shall be reimbursed under this subdivision upon filing proof that the instrument was duly presented to him or her and that payment was made thereon to a person who appeared to the holder to be entitled to payment.

(c) The holder shall be reimbursed under this section even if he made the payment to a person whose claim against him was barred because of the expiration of any such period of time as those described in Section 1570.

(d) Any holder who has delivered personal property, including a certificate of any interest in a business association, to the Controller pursuant to this chapter may reclaim such personal property if still in the possession of the Controller without payment of any fee or other charges upon filing proof that the owner thereof has claimed such personal property from such holder. The Controller may, in his or her discretion, accept an affidavit of the holder stating the facts that entitle the holder to reimbursement under this subdivision as sufficient proof for the purposes of this subdivision.

SEC. 8. Section 1577 of the Code of Civil Procedure is amended to read:

1577. In addition to any damages, penalties, or fines for which a person may be liable under other provisions of law, any person who fails to report, pay, or deliver unclaimed property within the time prescribed by this chapter, unless that failure is due to reasonable cause, shall pay to the Controller interest at the rate of 12 percent per annum on that property or value thereof from the date the property should have been reported, paid, or delivered. If a holder pays or delivers unclaimed property in a timely manner, but files a report that is not in substantial compliance with the requirements of Section 1530, the interest payable shall not exceed ten thousand dollars (\$10,000). The holder shall not be subject to any interest payment if the holder's failure to report in substantial

1 compliance with the requirements of Section 1530 is due to
2 reasonable cause.

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